

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

DEUTSCHE BANK NATIONAL
TRUSTEE CO. AS TRUSTEE, and
others,

Plaintiffs,

v.

WILLIAM CUTLIP and CHIKAKO
CUTLIP,

Defendants.

Case No. 16-cv-07148 NC

**ORDER REQUESTING
REASSIGNMENT OF CASE AND
RECOMMENDING THAT
DISTRICT COURT JUDGE:
(1) DISREGARD DEFENDANTS'
NOTICE OF APPEAL; AND
(2) REMAND CASE TO STATE
COURT**

ECF 17, 20

Defendants William and Chikako Cutlip have filed a declination to proceed before a magistrate judge. ECF 20. The Clerk of Court is therefore requested to reassign this case to a District Court Judge.

This Order also serves as a Report and Recommendation to the newly assigned Judge. On February 6, 2017, I set plaintiffs' motion to remand (ECF 7) for hearing on February 15 and permitted the Cutlips to file a brief opposing remand by February 13. ECF 17. By orders dated December 20, 2016, and February 6, 2017, I also ordered the Cutlips to comply with 28 U.S.C. § 1446(a) and to file "a copy of all process, pleadings, and orders served upon such defendant or defendants in such action." ECF 6. To date, the Cutlips have not filed "a copy of all process, pleadings, and orders served upon such defendant or defendants in such action" and have not opposed remand to state court. I therefore RECOMMEND that the District Court Judge GRANT the unopposed motion to remand because the Cutlips have not established federal subject matter jurisdiction over

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1 this case.

2 Additionally, I RECOMMEND that the District Court Judge disregard the Notice of
3 Appeal to the Ninth Circuit Court of Appeals filed by the Cutlips (ECF 13), for the reasons
4 explained in my February 6 order. ECF 17. In sum, the Cutlips seek to appeal a non-final
5 order on a motion to shorten time.

6 In conclusion, I:

- 7 1. Request reassignment of this case to a District Court Judge.
- 8 2. Recommend that the District Court Judge grant remand to Santa Clara County
9 Superior Court. And,
- 10 3. Recommend that the Court disregard the Notice of Appeal of a non-final order
11 filed by the defendants.

12 Any party may object to this Report and Recommendation. Under Federal Rule of
13 Civil Procedure 72(b)(2), any objection must be filed within 14 days of being served with
14 this recommendation.

15 **IT IS SO ORDERED.**

16
17 Dated: February 14, 2017



NATHANAEL M. COUSINS
United States Magistrate Judge